

IT 95-39  
Tax Type: INCOME TAX  
Issue: Unitary Apportionment

STATE OF ILLINOIS  
DEPARTMENT OF REVENUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
CHICAGO, ILLINOIS

THE DEPARTMENT OF REVENUE )  
OF THE STATE OF ILLINOIS )  
 ) Docket No.:  
v. ) FEIN or SSN:  
 )  
XXXXX and affiliates, ) Harve D. Tucker,  
Taxpayer ) Administrative Law Judge

RECOMMENDATION FOR DISPOSITION  
PURSUANT TO TAXPAYER'S REQUEST FOR REHEARING

APPEARANCES: XXXXX and XXXXX for XXXXX; Deborah H. Mayer, Special Assistant Attorney General, for the Illinois Department of Revenue.

SYNOPSIS: See recommendation for Disposition, dated January 18, 1994, and issued February 1, 1994.

The Taxpayer has filed a Request for Rehearing, dated February 22, 1994. The grounds for the rehearing are based upon the Taxpayer's position that there was an erroneous audit adjustment which should have been eliminated from the computations which were attached to the Recommendation for Disposition. The Taxpayer indicated that the audit for 1982 and 1983 had included an addback to Federal Taxable Income of intercompany interest expense. The Taxpayer also contended that the Department's litigator had previously agreed that this adjustment had been made in error. Since this issue had not been addressed in either the stipulations, hearing or briefs, it was not considered in the Recommendation for Disposition.

Pursuant to 35 ILCS 5/908(c), the Department may grant either a rehearing or Departmental review. Accordingly, a review was made which indicates that the Taxpayer is correct.

FINDINGS OF FACT: See Recommendation for Disposition, dated January

18, 1994.

In addition, it is found that the previous examination by Technical Review indicated that an erroneous adjustment had been made and should be corrected. This adjustment was not corrected.

CONCLUSIONS OF LAW: See Recommendation for Disposition, dated January 18, 1994.

It is further concluded that the previous erroneous adjustment should be corrected pursuant to the revised EDA-25's attached hereto. It is further noted that the adjustment was only for tax years 1982 and 1983; tax years 1984 and 1985 remain unchanged.

Harve D. Tucker  
Administrative Law Judge

Date